



February 18, 2005

HOUSE BILL No. 1294

DIGEST OF HB 1294 (Updated February 14, 2005 5:42 pm - DI 107)

Citations Affected: IC 32-29.

Synopsis: Sheriff's sale fee. Allows a sheriff to charge a person enforcing a mortgage foreclosure judgment a fee of up to \$200 for sheriff's sale costs.

Effective: July 1, 2005.

Whetstone, Grubb

January 11, 2005, read first time and referred to Committee on Judiciary.
February 17, 2005, amended, reported — Do Pass.

C
o
p
y

HB 1294—LS 7111/DI 52+



February 18, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1294

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 32-29-7-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) In a proceeding
3 for the foreclosure of a mortgage executed on real estate, process may
4 not issue for the execution of a judgment or decree of sale for a period
5 of three (3) months after the filing of a complaint in the proceeding.
6 However:

7 (1) the period ~~shall be~~ is:

8 (A) twelve (12) months in a proceeding for the foreclosure of
9 a mortgage executed before January 1, 1958; and

10 (B) six (6) months in a proceeding for the foreclosure of a
11 mortgage executed after December 31, 1957, but before July
12 1, 1975; and

13 (2) if the court finds that the mortgaged real estate is residential
14 real estate and has been abandoned, a judgment or decree of sale
15 may be executed on the date the judgment of foreclosure or
16 decree of sale is entered, regardless of the date the mortgage is
17 executed.

HB 1294—LS 7111/DI 52+



C
o
p
y

(b) A judgment and decree in a proceeding to foreclose a mortgage that is entered by a court having jurisdiction may be filed with the clerk in any county as provided in IC 33-32-3-2. After the period set forth in subsection (a) expires, a person who may enforce the judgment and decree may file a praecipe with the clerk in any county where the judgment and decree is filed, and the clerk shall promptly issue and certify to the sheriff of that county a copy of the judgment and decree under the seal of the court.

(c) Upon receiving a certified judgment under subsection (b), the sheriff shall, subject to section 4 of this chapter, sell the mortgaged premises or as much of the mortgaged premises as necessary to satisfy the judgment, interest, and costs at public auction at the office of the sheriff or at another location that is reasonably likely to attract higher competitive bids. The sheriff shall schedule the date and time of the sheriff's sale for a time certain between the hours of 10 a.m. and 4 p.m. on any day of the week except Sunday.

(d) Before selling mortgaged property, the sheriff must advertise the sale by publication once each week for three (3) successive weeks in a daily or weekly newspaper of general circulation. The sheriff shall publish the advertisement in at least one (1) newspaper published and circulated in each county where the real estate is situated. The first publication shall be made at least thirty (30) days before the date of sale. At the time of placing the first advertisement by publication, the sheriff shall also serve a copy of the written or printed notice of sale upon each owner of the real estate. Service of the written notice shall be made as provided in the Indiana Rules of Trial Procedure governing service of process upon a person. The sheriff shall charge a fee of ten dollars (\$10) to one (1) owner and three dollars (\$3) to each additional owner for service of written notice under this subsection. The fee is:

- (1) a cost of the proceeding;
- (2) to be collected as other costs of the proceeding are collected;
- and
- (3) to be deposited in the county general fund for appropriation for operating expenses of the sheriff's department.

(e) The sheriff also shall post written or printed notices of the sale in at least three (3) public places in each township in which the real estate is situated and at the door of the courthouse of each county in which the real estate is located.

(f) If the sheriff is unable to procure the publication of a notice within the county, the sheriff may dispense with publication. ~~However,~~ The sheriff shall state that the sheriff was not able to procure the publication and explain the reason why publication was not possible.

**C
o
p
y**



1 (g) Notices under subsections (d) and (e) must contain a statement,
2 for informational purposes only, of the location of each property by
3 street address, if any, or other common description of the property other
4 than legal description. A misstatement in the informational statement
5 under this subsection does not invalidate an otherwise valid sale.

6 (h) The sheriff may charge an administrative fee of not more
7 than two hundred dollars (\$200) with respect to a proceeding
8 referred to in subsection (b) for actual costs directly attributable
9 to the administration of the sale under subsection (c). The fee is:

- 10 (1) payable by the person seeking to enforce a judgment and
11 decree; and
12 (2) due at the time of filing of the praecipe;
13 under subsection (b).

C
o
p
y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1294, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 7, delete "one" and insert "**two**".

Page 3, line 7, delete "(\$100)" and insert "**(\$200)**".

and when so amended that said bill do pass.

(Reference is to HB 1294 as introduced.)

FOLEY, Chair

Committee Vote: yeas 9, nays 0.

C
o
p
y

